

SSB 5610 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 77.85.005 and 1999 sp.s. c 13 s 1 are each amended to
4 read as follows:

5 The legislature finds that repeated attempts to improve salmonid
6 fish runs throughout the state of Washington have failed to avert
7 listings of salmon and steelhead runs as threatened or endangered under
8 the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).
9 These listings threaten the sport, commercial, and tribal fishing
10 industries as well as the economic well-being and vitality of vast
11 areas of the state. It is the intent of the legislature to begin
12 activities required for the recovery of salmon stocks as soon as
13 possible, although the legislature understands that successful recovery
14 efforts may not be realized for many years because of the life cycle of
15 salmon and the complex array of natural and human-caused problems they
16 face.

17 The legislature finds that it is in the interest of the citizens of
18 the state of Washington for the state to retain primary responsibility
19 for managing the natural resources of the state, rather than abdicate
20 those responsibilities to the federal government, and that the state
21 may best accomplish this objective by integrating local and regional
22 recovery activities into a statewide ((~~plan~~)) strategy that can make
23 the most effective use of provisions of federal laws allowing for a
24 state lead in salmon recovery, delivered through implementation
25 activities consistent with regional and watershed recovery plans. The
26 legislature also finds that a statewide salmon recovery ((~~plan~~))
27 strategy must be developed and implemented through an active public
28 involvement process in order to ensure public participation in, and
29 support for, salmon recovery. The legislature also finds that there is
30 a substantial link between the provisions of the federal endangered

1 species act and the federal clean water act (33 U.S.C. Sec. 1251 et
2 seq.). The legislature further finds that habitat restoration is a
3 vital component of salmon recovery efforts. Therefore, it is the
4 intent of the legislature to specifically address salmon habitat
5 restoration in a coordinated manner and to develop a structure that
6 allows for the coordinated delivery of federal, state, and local
7 assistance to communities for habitat projects that will assist in the
8 recovery and enhancement of salmon stocks. A strong watershed-based
9 locally implemented plan is essential for local, regional, and
10 statewide salmon recovery.

11 The legislature also finds that credible scientific review and
12 oversight is essential for any salmon recovery effort to be successful.

13 The legislature further finds that it is important to monitor the
14 overall health of the salmon resource to determine if recovery efforts
15 are providing expected returns. It is important to monitor salmon
16 habitat projects and salmon recovery activities to determine their
17 effectiveness in order to secure federal acceptance of the state's
18 approach to salmon recovery. Adaptive management cannot exist without
19 monitoring. For these reasons, the legislature believes that a
20 coordinated and integrated monitoring (~~process~~) system should be
21 developed and implemented.

22 The legislature therefore finds that a coordinated framework for
23 responding to the salmon crisis is needed immediately. To that end,
24 the salmon recovery office should be created within the governor's
25 office to provide overall coordination of the state's response; an
26 independent science panel is needed to provide scientific review and
27 oversight; a coordinated state funding process should be established
28 through a salmon recovery funding board; the appropriate local or
29 tribal government should provide local leadership in identifying and
30 sequencing habitat projects to be funded by state agencies; habitat
31 projects should be implemented without delay; and a strong locally
32 based effort to restore salmon habitat should be established by
33 providing a framework to allow citizen volunteers to work effectively.

34 **Sec. 2.** RCW 77.85.010 and 2002 c 210 s 1 are each amended to read
35 as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

1 (1) "Adaptive management" means reliance on scientific methods to
2 test the results of actions taken so that the management and related
3 policy can be changed promptly and appropriately.

4 (2) "Critical pathways methodology" means a project scheduling and
5 management process for examining interactions between habitat projects
6 and salmonid species, prioritizing habitat projects, and assuring
7 positive benefits from habitat projects.

8 (3) "Habitat project list" is the list of projects resulting from
9 the critical pathways methodology under RCW 77.85.060(2). Each project
10 on the list must have a written agreement from the landowner on whose
11 land the project will be implemented. Projects include habitat
12 restoration projects, habitat protection projects, habitat projects
13 that improve water quality, habitat projects that protect water
14 quality, habitat-related mitigation projects, and habitat project
15 maintenance and monitoring activities.

16 (4) "Habitat work schedule" means those projects from the habitat
17 project list that will be implemented during the current funding cycle.
18 The schedule shall also include a list of the entities and individuals
19 implementing projects, the start date, duration, estimated date of
20 completion, estimated cost, and funding sources for the projects.

21 (5) "Limiting factors" means conditions that limit the ability of
22 habitat to fully sustain populations of salmon. These factors are
23 primarily fish passage barriers and degraded estuarine areas, riparian
24 corridors, stream channels, and wetlands.

25 (6) "Project sponsor" is a county, city, special district, tribal
26 government, state agency, a combination of such governments through
27 interlocal or interagency agreements, a nonprofit organization,
28 regional fisheries enhancement group, or one or more private citizens.
29 A project sponsored by a state agency may be funded by the board only
30 if it is included on the habitat project list submitted by the lead
31 entity for that area and the state agency has a local partner that
32 would otherwise qualify as a project sponsor.

33 (7) "Regional recovery organization" or "regional salmon recovery
34 organization" means an entity formed under RCW 77.85.090 for the
35 purpose of recovering salmon, which is recognized in statute or by the
36 salmon recovery office.

37 (8) "Salmon" includes all species of the family Salmonidae which
38 are capable of self-sustaining, natural production.

1 ~~((+8))~~ (9) "Salmon recovery plan" means a state or regional plan
2 developed in response to a proposed or actual listing under the federal
3 endangered species act that addresses limiting factors including, but
4 not limited to harvest, hatchery, hydropower, habitat, and other
5 factors of decline.

6 ~~((+9))~~ (10) "Salmon recovery region" means geographic areas of the
7 state identified or formed under RCW 77.85.090 that encompass groups of
8 watersheds in the state with common stocks of salmon identified for
9 recovery activities, and that generally are consistent with the
10 geographic areas within the state identified by the national oceanic
11 and atmospheric administration or the United States fish and wildlife
12 service for activities under the federal endangered species act.

13 (11) "Tribe" or "tribes" means federally recognized Indian tribes.

14 ~~((+10))~~ (12) "WRIA" means a water resource inventory area
15 established in chapter 173-500 WAC as it existed on January 1, 1997.

16 ~~((+11))~~ (13) "Owner" means the person holding title to the land or
17 the person under contract with the owner to lease or manage the legal
18 owner's property.

19 **Sec. 3.** RCW 77.85.020 and 1998 c 246 s 4 are each amended to read
20 as follows:

21 ~~((Beginning in))~~ (1) By December ~~((2000))~~ 1, 2006, the governor
22 shall submit a ~~((biennial state of the salmon))~~ report to the
23 legislature ~~((during the first week of December))~~ regarding the
24 implementation of the state's salmon recovery strategy. The report may
25 include the following:

26 ~~((+1))~~ (a) A description of the amount of in-kind and financial
27 contributions, including volunteer, private, and state, federal, tribal
28 as available, and local government money directly spent on salmon
29 recovery in response to actual, proposed, or expected endangered
30 species act listings;

31 ~~((+2))~~ (b) A summary of habitat projects including but not limited
32 to:

33 ~~((+a))~~ (i) A summary of accomplishments in removing barriers to
34 salmon passage and an identification of existing barriers;

35 ~~((+b))~~ (ii) A summary of salmon restoration efforts undertaken in
36 the past two years;

- 1 ~~((e))~~ (iii) A summary of the role which private volunteer
2 initiatives contribute in salmon habitat restoration efforts; and
3 ~~((d))~~ (iv) A summary of efforts taken to protect salmon habitat;
4 ~~((3))~~ (c) A summary of collaborative efforts undertaken with
5 adjoining states or Canada;
6 ~~((4))~~ (d) A summary of harvest and hatchery management activities
7 affecting salmon recovery;
8 ~~((5))~~ (e) A summary of information regarding impediments to
9 successful salmon recovery efforts;
10 ~~((6))~~ (f) A summary of the number and types of violations of
11 existing laws pertaining to: ~~((a))~~ (i) Water quality; and ~~((b))~~
12 (ii) salmon. The summary shall include information about the types of
13 sanctions imposed for these violations;
14 ~~((7))~~ (g) Information on the estimated carrying capacity of new
15 habitat created pursuant to chapter 246, Laws of 1998; and
16 ~~((8))~~ (h) Recommendations to the legislature that would further
17 the success of salmon recovery. The recommendations may include:
18 ~~((a))~~ (i) The need to expand or improve nonregulatory programs
19 and activities; ~~(and~~
20 ~~(b))~~ (ii) The need to expand or improve state and local laws and
21 regulations; and
22 (iii) Recommendations for state funding assistance to recovery
23 activities and projects.
24 (2) The report shall summarize the monitoring data coordinated by
25 the monitoring forum. The summary must include but is not limited to
26 data and analysis related to:
27 (a) Measures of progress in fish recovery;
28 (b) Measures of factors limiting recovery as well as trends in such
29 factors; and
30 (c) The status of implementation of projects and activities.

31 **Sec. 4.** RCW 77.85.030 and 2000 c 107 s 93 are each amended to read
32 as follows:

33 (1) The salmon recovery office is created within the office of the
34 governor to coordinate state strategy to allow for salmon recovery to
35 healthy sustainable population levels with productive commercial and
36 recreational fisheries. The primary purpose of the office is to
37 coordinate and assist in the development of regional salmon recovery

1 plans (~~for evolutionarily significant units, and submit those plans to~~
2 ~~the appropriate tribal governments and federal agencies~~) as an
3 integral part of a statewide strategy developed consistent with the
4 guiding principles and procedures under RCW 77.85.150. The governor's
5 salmon recovery office (~~may also:~~

6 ~~(a)) shall assist regional recovery organizations in submitting~~
7 ~~plans to the federal fish services for adoption as federal recovery~~
8 ~~plans. The governor's salmon recovery office may also:~~

9 (a) Assist state agencies, local governments, landowners, and other
10 interested parties in obtaining federal assurances that plans,
11 programs, or activities are consistent with fish recovery under the
12 federal endangered species act;

13 (b) Act as liaison to local governments, the state congressional
14 delegation, the United States congress, federally recognized tribes,
15 and the federal executive branch agencies for issues related to the
16 state's (~~endangered species act~~) salmon recovery plans; and

17 ~~((b))~~ (c) Provide (~~the biennial state of the salmon report to~~
18 the legislature)) periodic reports pursuant to RCW 77.85.020.

19 (2) This section expires June 30, (~~2006~~) 2007.

20 **Sec. 5.** RCW 77.85.040 and 2000 c 107 s 94 are each amended to read
21 as follows:

22 (1) The governor shall request the national academy of sciences,
23 the American fisheries society, or a comparable institution to screen
24 candidates to serve as members on the independent science panel. The
25 institution that conducts the screening of the candidates shall submit
26 a list of the nine most qualified candidates to the governor, the
27 speaker of the house of representatives, and the majority leader of the
28 senate. The candidates shall reflect expertise in habitat requirements
29 of salmon, protection and restoration of salmon populations, artificial
30 propagation of salmon, hydrology, or geomorphology.

31 (2) The speaker of the house of representatives and the majority
32 leader in the senate may each remove one name from the nomination list.
33 The governor shall consult with tribal representatives and the governor
34 shall appoint five scientists from the remaining names on the
35 nomination list.

36 (3) The members of the independent science panel shall serve four-
37 year terms. Vacant positions on the panel shall be filled in the same

1 manner as the original appointments. Members shall serve no more than
2 two full terms. The independent science panel members shall elect the
3 chair of the panel among themselves every two years. Based upon
4 available funding, the governor's salmon recovery office may contract
5 for services with members of the independent science panel for
6 compensation under chapter 39.29 RCW.

7 (4) The independent science panel shall be governed by generally
8 accepted guidelines and practices governing the activities of
9 independent science boards such as the national academy of sciences.
10 The purpose of the independent science panel is to help ensure that
11 sound science is used in salmon recovery efforts. The governor's
12 salmon recovery office (~~shall~~) may request review of regional salmon
13 recovery plans by the science review panel. The science panel does not
14 have the authority to review individual projects or habitat project
15 lists developed under RCW 77.85.050(~~(7)~~) or 77.85.060(~~(7) and~~
16 ~~75.46.080~~) or to make policy decisions. The panel shall periodically
17 submit its findings and recommendations under this subsection to the
18 legislature and the governor.

19 (~~(5) The independent science panel, in conjunction with the~~
20 ~~technical review team, shall recommend standardized monitoring~~
21 ~~indicators and data quality guidelines for use by entities involved in~~
22 ~~habitat projects and salmon recovery activities across the state.~~

23 (~~(6) The independent science panel, in conjunction with the~~
24 ~~technical review team, shall also recommend criteria for the systematic~~
25 ~~and periodic evaluation of monitoring data in order for the state to be~~
26 ~~able to answer critical questions about the effectiveness of the~~
27 ~~state's salmon recovery efforts.~~

28 (~~(7) The recommendations on monitoring as required in this section~~
29 ~~shall be provided in a report to the governor and to the legislature by~~
30 ~~the independent science panel, in conjunction with the salmon recovery~~
31 ~~office, no later than December 31, 2000. The report shall also include~~
32 ~~recommendations on the level of effort needed to sustain monitoring of~~
33 ~~salmon projects and other recovery efforts, and any other~~
34 ~~recommendations on monitoring deemed important by the independent~~
35 ~~science panel and the technical review team. The report may be~~
36 ~~included in the biennial state of the salmon report required under RCW~~
37 ~~77.85.020.)~~)

1 **Sec. 6.** RCW 77.85.050 and 1999 sp.s. c 13 s 11 are each amended to
2 read as follows:

3 (1)(a) Counties, cities, and tribal governments must jointly
4 designate, by resolution or by letters of support, the area for which
5 a habitat project list is to be developed and the lead entity that is
6 to be responsible for submitting the habitat project list. No project
7 included on a habitat project list shall be considered mandatory in
8 nature and no private landowner may be forced or coerced into
9 participation in any respect. The lead entity may be a county, city,
10 conservation district, special district, tribal government, regional
11 recovery organization, or other entity.

12 (b) The lead entity shall establish a committee that consists of
13 representative interests of counties, cities, conservation districts,
14 tribes, environmental groups, business interests, landowners, citizens,
15 volunteer groups, regional fish enhancement groups, and other habitat
16 interests. The purpose of the committee is to provide a citizen-based
17 evaluation of the projects proposed to promote salmon habitat. (~~The~~
18 ~~technical review team may provide the lead entity with organizational~~
19 ~~models that may be used in establishing the committees.~~)

20 (c) The committee shall compile a list of habitat projects,
21 establish priorities for individual projects, define the sequence for
22 project implementation, and submit these activities as the habitat
23 project list. The committee shall also identify potential federal,
24 state, local, and private funding sources.

25 (2) The area covered by the habitat project list must be based, at
26 a minimum, on a WRIA, combination of WRIAs, or any other area as agreed
27 to by the counties, cities, and tribes in resolutions or in letters of
28 support meeting the requirements of this subsection. Preference will
29 be given to projects in an area that contain a salmon species that is
30 listed or proposed for listing under the federal endangered species
31 act.

32 (3) The lead entity shall submit the habitat project list to the
33 (~~technical review team~~) board in accordance with procedures adopted
34 by the board.

35 **Sec. 7.** RCW 77.85.090 and 2000 c 107 s 99 are each amended to read
36 as follows:

1 (1) The southwest Washington salmon recovery region, whose
2 boundaries are provided in chapter 60, Laws of 1998, is created.

3 (2) Lead entities within a salmon recovery region that agree to
4 form a regional salmon recovery organization may be recognized by the
5 salmon recovery office as a regional recovery organization. The
6 regional recovery organization may plan, coordinate, and monitor the
7 implementation of a regional recovery plan.

8 **Sec. 8.** RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are
9 each reenacted and amended to read as follows:

10 (1) The salmon recovery funding board shall develop procedures and
11 criteria for allocation of funds for salmon habitat projects and salmon
12 recovery activities on a statewide basis to address the highest
13 priorities for salmon habitat protection and restoration. To the
14 extent practicable the board shall adopt an annual allocation of
15 funding. The allocation should address both protection and restoration
16 of habitat, and should recognize the varying needs in each area of the
17 state on an equitable basis. The board has the discretion to partially
18 fund, or to fund in phases, salmon habitat projects. The board may
19 annually establish a maximum amount of funding available for any
20 individual project, subject to available funding. No projects required
21 solely as a mitigation or a condition of permitting are eligible for
22 funding.

23 (2)(a) In evaluating, ranking, and awarding funds for projects and
24 activities the board shall give preference to projects that:

25 (i) Are based upon the limiting factors analysis identified under
26 RCW 77.85.060;

27 (ii) Provide a greater benefit to salmon recovery based upon the
28 stock status information contained in the department of fish and
29 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
30 habitat inventory and assessment project (SSHIAP), and any comparable
31 science-based assessment when available;

32 (iii) Will benefit listed species and other fish species; ~~((and))~~

33 (iv) Will preserve high quality salmonid habitat; and

34 (v) Are included in a regional or watershed-based salmon recovery
35 plan that accords the project, action, or area a high priority for
36 funding.

1 (b) In evaluating, ranking, and awarding funds for projects and
2 activities the board shall also give consideration to projects that:

- 3 (i) Are the most cost-effective;
4 (ii) Have the greatest matched or in-kind funding; ~~((and))~~
5 (iii) Will be implemented by a sponsor with a successful record of
6 project implementation; and
7 (iv) Are part of a regionwide list developed by lead entities.

8 (3) The board may reject, but not add, projects from a habitat
9 project list submitted by a lead entity for funding.

10 ~~(4) ((For fiscal year 2000, the board may authorize the interagency
11 review team to evaluate, rank, and make funding decisions for
12 categories of projects or activities or from funding sources provided
13 for categories of projects or activities. In delegating such authority
14 the board shall consider the review team's staff resources, procedures,
15 and technical capacity to meet the purposes and objectives of this
16 chapter. The board shall maintain general oversight of the team's
17 exercise of such authority.~~

18 ~~(5) The board shall seek the guidance of the technical review team
19 to ensure that scientific principles and information are incorporated
20 into the allocation standards and into proposed projects and
21 activities. If the technical review team determines that a habitat
22 project list complies with the critical pathways methodology under RCW
23 77.85.060, it shall provide substantial weight to the list's project
24 priorities when making determinations among applications for funding of
25 projects within the area covered by the list.~~

26 ~~(6))~~ The board shall establish criteria for determining when block
27 grants may be made to a lead entity ~~((or other recognized regional
28 recovery entity consistent with one or more habitat project lists
29 developed for that region. Where a lead entity has been established
30 pursuant to RCW 77.85.050,)).~~ The board may provide block grants to
31 the lead entity to ~~((assist in carrying out lead entity functions under
32 this chapter,))~~ implement habitat project lists developed under RCW
33 77.85.050, subject to available funding. The board shall determine an
34 equitable minimum amount of project funds for each recovery region, and
35 shall distribute the remainder of funds on a competitive basis. The
36 board may also provide block grants to the lead entity or regional
37 recovery organization to assist in carrying out functions described
38 under this chapter. Block grants must be expended consistent with the

1 priorities established for the board in subsection (2) of this section.
2 Lead entities or regional recovery organizations receiving block grants
3 under this subsection shall provide an annual report to the board
4 summarizing how funds were expended for activities consistent with this
5 chapter, including the types of projects funded, project outcomes,
6 monitoring results, and administrative costs.

7 ((+7)) (5) The board may waive or modify portions of the
8 allocation procedures and standards adopted under this section in the
9 award of grants or loans to conform to legislative appropriations
10 directing an alternative award procedure or when the funds to be
11 awarded are from federal or other sources requiring other allocation
12 procedures or standards as a condition of the board's receipt of the
13 funds. The board shall develop an integrated process to manage the
14 allocation of funding from federal and state sources to minimize delays
15 in the award of funding while recognizing the differences in state and
16 legislative appropriation timing.

17 ((+8)) (6) The board may award a grant or loan for a salmon
18 recovery project on private or public land when the landowner has a
19 legal obligation under local, state, or federal law to perform the
20 project, when expedited action provides a clear benefit to salmon
21 recovery, and there will be harm to salmon recovery if the project is
22 delayed. For purposes of this subsection, a legal obligation does not
23 include a project required solely as a mitigation or a condition of
24 permitting.

25 ((+9)) (7) The board may condition a grant or loan to include the
26 requirement that property may only be transferred to a federal agency
27 if the agency that will acquire the property agrees to comply with all
28 terms of the grant or loan to which the project sponsor was obligated.
29 Property acquired or improved by a project sponsor may be conveyed to
30 a federal agency, but only if the agency agrees to comply with all
31 terms of the grant or loan to which the project sponsor was obligated.

32 **Sec. 9.** RCW 77.85.150 and 1999 sp.s. c 13 s 9 are each amended to
33 read as follows:

34 (1) ((By September 1, 1999,)) The governor, with the assistance of
35 the salmon recovery office, shall ((submit a statewide salmon recovery
36 strategy to the appropriate federal agencies administering the federal

1 ~~endangered species act~~) maintain and revise a statewide salmon
2 recovery strategy.

3 (2) The governor and the salmon recovery office shall be guided by
4 the following considerations in (~~developing~~) maintaining and revising
5 the strategy:

6 (a) The strategy should identify statewide initiatives and
7 responsibilities with regional recovery plans and local watershed
8 initiatives as the principal (~~mechanism~~) means for implementing the
9 strategy;

10 (b) The strategy should emphasize collaborative, incentive-based
11 approaches;

12 (c) The strategy should address all factors limiting the recovery
13 of Washington's listed salmon stocks, including habitat and water
14 quality degradation, harvest and hatchery management, inadequate
15 streamflows, and other barriers to fish passage. Where other limiting
16 factors are beyond the state's jurisdictional authorities to respond
17 to, such as some natural predators and high seas fishing, the strategy
18 shall include the state's requests for federal action to effectively
19 address these factors;

20 (d) The strategy should identify immediate actions necessary to
21 prevent extinction of a listed salmon stock, establish performance
22 measures to determine if restoration efforts are working, recommend
23 effective monitoring and data management, and recommend to the
24 legislature clear and certain measures to be implemented if performance
25 goals are not met;

26 (e) The strategy shall rely on the best scientific information
27 available and provide for incorporation of new information as it is
28 obtained;

29 (f) The strategy should seek a fair allocation of the burdens and
30 costs upon economic and social sectors of the state whose activities
31 may contribute to limiting the recovery of salmon; and

32 (g) The strategy should seek clear measures and procedures from the
33 appropriate federal agencies for removing Washington's salmon stocks
34 from listing under the federal act.

35 (3) Beginning on September 1, 2000, the strategy shall be updated
36 through an active public involvement process, including early and
37 meaningful opportunity for public comment. In obtaining public
38 comment, the salmon recovery office shall hold public meetings

1 throughout the state and shall encourage regional and local recovery
2 planning efforts to similarly ensure an active public involvement
3 process.

4 (4) This section shall apply prospectively only and not
5 retroactively. Nothing in this section shall be construed to
6 invalidate actions taken in recovery planning at the local, regional,
7 or state level prior to July 1, 1999.

8 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
9 each repealed:

10 (1) RCW 77.85.070 (Technical advisory groups) and 2000 c 107 s 97
11 & 1998 c 246 s 10; and

12 (2) RCW 77.85.210 (Monitoring activities--Monitoring oversight
13 committee--Legislative steering committee--Report to the legislature--
14 Monitoring strategy and action plan) and 2001 c 298 s 3."

15 Correct the title.

--- END ---